

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTOPHER S. JOHNSON,)
Petitioner,) CASE NO. C05-1283-MJP-MJB
v.) REPORT AND
STATE OF WASHINGTON,) RECOMMENDATION
Respondent.)
_____)

Petitioner, who is proceeding *pro se*, filed a petition labeled “Writ of Prohibition,” which this Court construes as a habeas petition pursuant to 28 U.S.C. § 2254. However, due to defects in petitioner’s habeas petition, the court declined to order that the petition be served. Instead, on October 7, 2005, the Court issued an Order Declining to Serve Petition and Granting Leave to Amend, which identified the defects in petitioner’s habeas petition¹ and granted him leave to amend the petition to cure the deficiencies within 30 days of the date of the Order. Dkt. #9. Johnson was warned that failure to timely amend his petition would result in a recommendation of dismissal.

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¹Petitioner failed to name the warden of the prison where he is incarcerated as the respondent in this action. A petitioner's failure to name his or her custodian as a respondent deprives the district court of jurisdiction. *See Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994).

REPORT AND RECOMMENDATION

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1 Petitioner's amended habeas petition was due by was due by November 7, 2005.
2 To date, he has not filed an amended petition and he has not requested an extension of
3 time in which to do so.

4 Accordingly, the undersigned recommends dismissal of this case pursuant to Fed.
5 R. Civ. P. 41(b) for failure to comply with the Court's Order. A proposed Order
6 accompanies this Report and Recommendation.

7 DATED this 16th day of June, 2006.

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9 
10 MONICA J. BENTON
11 United States Magistrate Judge